

**EMINENT DOMAIN AUTHORITY OF
COMMUNITY DEVELOPMENT AND RENEWAL
AGENCIES**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to community development and renewal agencies.

Highlighted Provisions:

This bill:

- ▶ authorizes community development and renewal agencies to acquire property by eminent domain in an urban renewal project area under certain circumstances;
- ▶ authorizes community development and renewal agencies to acquire property by eminent domain without the owner's consent if 75% of property owners with at least 50% of the value of property within the urban renewal project area petition the agency;
- ▶ modifies requirements for notice of a blight hearing;
- ▶ imposes prerequisites on community development and renewal agencies before they may acquire property by eminent domain;
- ▶ authorizes a property owner to bring a civil action against a community development and renewal agency for the agency's violation of a requirement to provide a written declaration;
- ▶ requires an agency to keep a record of its good faith negotiations with the property owner; and



28 ▶ authorizes a court to award court costs, attorney fees, relocation expenses, and
29 compensation for damage to fixtures or other personal property.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **17C-1-206**, as renumbered and amended by Chapter 359, Laws of Utah 2006

37 **17C-2-503**, as renumbered and amended by Chapter 359, Laws of Utah 2006

38 ENACTS:

39 **17C-2-601**, Utah Code Annotated 1953

40 **17C-2-602**, Utah Code Annotated 1953

41 **17C-2-603**, Utah Code Annotated 1953



43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **17C-1-206** is amended to read:

45 **17C-1-206. Use of eminent domain prohibited -- Exception.**

46 (1) Except as provided in Subsection (2), an agency may not use eminent domain to
47 acquire property.

48 (2) An agency may use eminent domain to acquire:

49 (a) property within an urban renewal project area, subject to Chapter 2, Part 6, Eminent
50 Domain in an Urban Renewal Project Area; and

51 (b) any interest in property that is owned by an agency board member or officer and
52 located within a project area, if the board member or officer consents.

53 Section 2. Section **17C-2-503** is amended to read:

54 **17C-2-503. Additional requirements for notice of a blight hearing.**

55 Each notice under Section 17C-2-502 for a blight hearing shall include:

56 (1) a statement that:

57 [~~(+)~~] (a) an urban renewal project area is being proposed;

58 [~~(2)~~] (b) the proposed urban renewal project area may be declared to have blight;

59 ~~[(3)]~~ (c) the record owner of property within the proposed project area has the right to
60 present evidence at the blight hearing contesting the existence of blight;

61 ~~[(4)]~~ (d) except for a hearing continued under Section 17C-2-402, the agency will
62 notify the record property owners referred to in Subsection 17C-2-502(1)(b)(i) of each
63 additional public hearing held by the agency concerning the urban renewal project prior to the
64 adoption of the urban renewal project area plan; and

65 ~~[(5)]~~ (e) persons contesting the existence of blight in the proposed urban renewal
66 project area may appear before the agency board and show cause why the proposed urban
67 renewal project area should not be designated as an urban renewal project area~~[-]; and~~

68 (2) if the agency anticipates acquiring property in an urban renewal project area by
69 eminent domain, a clear and plain statement that:

70 (a) the project area plan may require the agency to use eminent domain; and

71 (b) the proposed use of eminent domain will be discussed at the blight hearing.

72 Section 3. Section **17C-2-601** is enacted to read:

73 **Part 6. Eminent Domain in an Urban Renewal Project Area**

74 **17C-2-601. Use of eminent domain in an urban renewal project area -- Conditions**
75 **-- Acquiring property without the owner's consent -- Acquiring property already devoted**
76 **to a public use -- Relocation assistance requirement.**

77 (1) Subject to Section 17C-2-602, an agency may use eminent domain to acquire
78 property within an urban renewal project area if:

79 (a) the agency board makes a finding of blight under Part 3, Blight Determination in
80 Urban Renewal Project Areas, unless the property to be acquired is property owned by an
81 agency board member or officer;

82 (b) the urban renewal project area plan provides for the use of eminent domain; and

83 (c) the agency commences the acquisition of the property within five years after the
84 effective date of the urban renewal project area plan.

85 (2) Without the owner's consent, an agency may not acquire by eminent domain a
86 single-family residential or commercial parcel of real property that is occupied by the owner
87 unless:

88 (a) 75% of the owners of private real property within the project area representing at
89 least 50% of the value of private real property within the project area submit a written petition

90 requesting the agency to use eminent domain to acquire the parcel; and

91 (b) 2/3 of the agency board present at a public meeting where a quorum is present vote
92 in favor of using eminent domain to acquire the parcel.

93 (3) Without the owner's consent, an agency may not acquire any real property on which
94 an existing building is to be continued on its present site and in its present form and use unless:

95 (a) the building requires structural alteration, improvement, modernization, or
96 rehabilitation;

97 (b) the site or lot on which the building is situated requires modification in size, shape,
98 or use; or

99 (c) (i) it is necessary to impose upon the property any of the standards, restrictions, and
100 controls of the project area plan; and

101 (ii) the owner fails or refuses to agree to participate in the project area plan.

102 (4) (a) Subject to Subsection (4)(b), an agency may acquire by eminent domain
103 property within the urban renewal project area that is already devoted to a public use.

104 (b) An agency may not acquire property of a public entity within an urban renewal
105 project area without the public entity's consent.

106 (5) Each agency that acquires property by eminent domain shall comply with Title 57,
107 Chapter 12, Utah Relocation Assistance Act.

108 Section 4. Section **17C-2-602** is enacted to read:

109 **17C-2-602. Prerequisites to the acquisition of property by eminent domain -- Civil**
110 **action authorized -- Record of good faith negotiations to be retained.**

111 (1) Before an agency may acquire property by eminent domain, the agency shall:

112 (a) negotiate in good faith with the affected record property owner;

113 (b) provide to each affected record property owner a written declaration that includes:

114 (i) an explanation of the eminent domain process and the reasons for using it,

115 including:

116 (A) the need for the agency to obtain an independent appraisal that indicates the fair
117 market value of the property and how the fair market value was determined;

118 (B) a statement that the agency may adopt a resolution authorizing the agency to make
119 an offer to the record property owner to purchase the property for the fair market value amount
120 determined by the appraiser and that, if the offer is rejected, the agency has the right to acquire

121 the property thorough an eminent domain proceeding; and

122 (C) a statement that the agency will prepare an offer that will include the price the
123 agency is offering for the property, an explanation of how the agency determined the price
124 being offered, the legal description of the property, conditions of the offer, and the time at
125 which the offer will expire;

126 (ii) an explanation of the record property owner's relocation rights under Title 57,
127 Chapter 12, Utah Relocation Assistance Act, and how to receive relocation assistance; and

128 (iii) a statement that the owner has the right to receive just compensation and an
129 explanation of how to obtain it; and

130 (c) provide to the affected record property owner or the owner's designated
131 representative a notice that is printed in a type size of at least ten-point type that contains:

132 (i) a description of the property to be acquired;

133 (ii) the name of the agency acquiring the property and the agency's contact person and
134 telephone number; and

135 (iii) a copy of Title 57, Chapter 12, Utah Relocation Assistance Act.

136 (2) A person may bring a civil action against an agency for a violation of Subsection
137 (1)(b) that results in damage to that person.

138 (3) Each agency shall keep a record and evidence of the good faith negotiations
139 required under Subsection (1)(a) and retain the record and evidence as provided in:

140 (a) Title 63, Chapter 2, Government Records Access and Management Act; or

141 (b) an ordinance or policy that the agency had adopted under Section 63-2-701.

142 (4) A record property owner whose property is being taken by an agency through the
143 exercise of eminent domain may elect to receive for the real property being taken:

144 (a) fair market value; or

145 (b) replacement property under Section 57-12-7.

146 Section 5. Section **17C-2-603** is enacted to read:

147 **17C-2-603. Court award for court costs and attorney fees, relocation expenses,**
148 **and damage to fixtures or personal property.**

149 If a property owner brings an action in district court contesting an agency's exercise of
150 eminent domain against that owner's property, the court may:

151 (1) award court costs and a reasonable attorney fee, as determined by the court, to the

152 owner, if the amount of the court or jury award for the property exceeds the amount offered by
153 the agency;

154 (2) award a reasonable sum, as determined by the court or jury, as compensation for
155 any costs and expenses of relocating an owner who occupied the acquired property, a party
156 conducting a business on the acquired property, or a person displaced from the property, as
157 permitted by Title 57, Chapter 12, Utah Relocation Assistance Act; and

158 (3) award an amount, as determined by the court or jury, to compensate for any fixtures
159 or personal property that is:

160 (a) owned by the owner of the acquired property or by a person conducting a business
161 on the acquired property; and

162 (b) damaged as a result of the acquisition or relocation.

Legislative Review Note
as of 1-25-07 4:44 PM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 365 - Eminent Domain Authority of Community Development and
Renewal Agencies**

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Eminent domain proceedings, as would be allowed by provisions in this bill, could impact local governments and local property owners, depending on specifics of individual cases.
